

General Information Letter: Reporting of federal changes, payment of resulting liabilities and claims for resulting refunds discussed.

March 21, 2001

Dear:

This is in response to your letter dated February 2, 2001. The nature of your letter and the information provided require that we respond with a General Information Letter (GIL). A GIL is designed to provide general information, is not a statement of Department policy and is not binding upon the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), which may be viewed on our website at <http://www.revenue.state.il.us>.

Your questionnaire states as follows:

1. What is the event requiring notification that a taxpayer has had an IRS audit?
 - a. Finalized Revenue Agent Report?
 - b. Joint Commission Approval (if required)?
2. What is the amount of time that a taxpayer has to report adjustments to your state?
3. Is payment required at the time of notification if any is due?
4. Would interest and penalty be required if any payment is due?
 - a. If yes, from what date would it be calculated – original due date or finalized RAR date?
5. If a payment is due, would an amended return be required or would your state accept other forms of calculations that would include a signature under penalties of perjury? Please detail what would be acceptable if other than those listed below:
 - a. Completed Amended Return Form only?
 - b. Return Form with Taxpayer Signature area completed with all calculations shown on attached statements?
 - c. Letter of explanation with taxpayer information and signature under penalties of perjury with all calculations shown on attached statements?
6. If amended return forms are required:
 - a. What is the form number to be used for an amended return?
 - b. Where can forms be located from your state (website, telephone number for ordering, etc.) and for how many previous years can these forms with instructions be provided?
7. If a refund is due, would an amended return be required or would your state accept other calculations that would include a signature under penalties of perjury? Please detail what would be acceptable if other than those listed below:
 - a. Completed Amended Return Form only?
 - b. Return Form with Taxpayer Information and Signature area completed with all calculations shown on attached statements?
 - c. Letter of explanation with taxpayer information and signature under penalties of perjury with all calculations shown on attached statements?

8. Is amended return or reporting mechanism that is required by RAR Adjustments limited to only federal RAR adjustments?

RULING

Department responses appear to each question in order.

1. Generally, a Finalized Revenue Agent Report implicates the notification requirement under section 506(b) of the Illinois Income Tax Act ("the IITA"; 35 ILCS 5/506(b)). Section 506(b) states as follows:

In the event the taxable income, any item of income or deduction, the income tax liability, or any tax credit reported in a federal income tax return of any person for any year is altered by amendment of such return or as a result of any other recomputation or redetermination of federal taxable income or loss, and such alteration reflects a change or settlement with respect to any item or items, affecting the computation of such person's net income, net loss, or of any credit provided by Article 2 for any year under this Act, or in the number of personal exemptions allowable to such person under Section 151 of the Internal Revenue Code, such person shall notify the Department of such alteration. Such notification shall be in the form of an amended return or such other form as the Department may by regulations prescribe, shall contain the person's name and address and such other information as the Department may by regulations prescribe, shall be signed by such person or his duly authorized representative, *and shall be filed not later than 120 days after such alteration has been agreed to or finally determined for federal income tax purposes or any federal income tax deficiency or refund, tentative carryback adjustment, abatement or credit resulting therefrom has been assessed or paid, whichever shall first occur.* (Emphasis added)

2. As IITA section 506(b) indicates, notification is required not later than 120 days after the federal change has been agreed to or finally determined.
3. Where a federal change causes an increase in Illinois income tax due, payment is required immediately. IITA section 601(a) states:

Every taxpayer required to file a return under this Act shall, without assessment, notice or demand, pay any tax due thereon to the Department, at the place fixed for filing, on or before the date fixed for filing such return (determined without regard to any extension of time for filing the return) pursuant to regulations prescribed by the Department.

4. Interest will be due on any additional Illinois tax resulting from a federal change, calculated from the due date of the original return. IITA section 1003(a) states:

If any amount of tax imposed by this Act, including tax withheld by an employer, is not paid on or before the date prescribed for payment of such tax (determined without regard to extensions), interest on such amount shall be paid in the manner and at the rate prescribed in Section 3-2 of the Uniform Penalty and Interest Act for the period from such date to the date of payment of such amount.

Generally, a penalty will not be due unless the taxpayer fails to make the notification required by IITA section 506(b) and pay any tax due within 30 days after a final assessment has been issued by the Department. See Illinois Department of Revenue Regulations section 100.700(c)(2).

5. As indicated by IITA section 506(b), *supra*, a federal change must be reported in the form of an amended return. The Department has not issued regulations providing for an alternative form of notification.
6. Amended return forms consist of Forms IL-1040-X (individuals), IL-1120-X (corporations), and IL-843 (trust, estate, exempt organization, partnership, or S corporation). Illinois forms may be obtained on the Department's website at www.revenue.state.il.us, or by calling (217) 785-3400. Forms and instructions for all years may be requested.
7. An amended return must be filed to claim any refund of Illinois tax resulting from a federal change. See IITA section 909(d) and Illinois Department of Revenue Regulations section 100.9400(f).
8. The provisions of IITA section 506(b) apply only in the case of a federal change. However, an amended return is also required where solely a state change is involved. See Form IL-1040-X Instructions.

As stated above, this is a GIL. Accordingly, it does not constitute a statement of policy that applies, interprets or prescribes the tax laws, and it is not binding upon the Department. If you are not under audit and wish to obtain a binding private letter ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of 86 Ill. Adm. Code 1200.110(b).

If you have further questions concerning this GIL you may contact me at (217) 782-7055. If you have further questions related to Illinois income tax laws, visit our website at www.revenue.state.il.us or contact the Department's Taxpayer Information Division at (217) 782-3336.

Sincerely,

Brian L. Stocker
Staff Attorney (Income Tax)